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Federal Communications Commission

DA 98-2213

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 98-52
Table of Allotments,	)	RM-9239
FM Broadcast Stations.	)	
(Hague, New York, and Addison, Vermont)	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: October 21, 1998

Released: October 30, 1998

By the Chief, Allocations Branch:

1. At the request of John Anthony Bulmer ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 13 FCC Rcd 7271 (1998), proposing the substitution of Channel 229C3 for Channel 229A at Hague, New York, the reallocation of Channel 229C3 to Addison, Vermont, as the community's first local aural service, and the modification of petitioner's construction permit for Station WWFY to specify Addison as its community of license. Petitioner filed comments supporting the proposal. No other comments were received.

2. As set forth in the Notice, petitioner seeks the reallocation of Channel 229C3 and the modification of its construction permit to specify Addison in lieu of Hague pursuant to the provisions of Section 1.420(i) of the Commission's Rules. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License ("Change of Community R&O"), 4 FCC Rcd 4870 (1989), recon. granted in part ("Change of Community MO&O"), 5 FCC Rcd 7094 (1990). The substitution of channels and allotment at Addison would provide the larger community (1,023 people vs. 699 people) with its first local aural service and enable Station WWFY to provide service to an additional 34,532 people within an additional service area of 2,287 square kilometers. In addition, as an Addison station, it would provide a second fulltime aural service to 40 people, a third such service to 49 people, a fourth service to 116 people and a fifth service to 225 people.

3. We believe the public interest would be served by substituting Channel 229C3 for Channel 229A and reallocating the channel from Hague, New York, to Addison, Vermont. We will also modify petitioner's construction permit for Station WWFY to specify Addison as its community of license. The reallocation will provide the larger community with its first local aural service and enable Station WWFY to provide service to an additional 34,532 persons. We recognize that the reallocation will result in a loss of potential service to 10,092 people within an area of 909 square kilometers. However, while we carefully evaluate a proposal that would result in a loss of existing reception service, in this case Station WWFY is not constructed. Therefore, we do not consider the channel's removal from Hague as presenting the same

concerns with loss of service that would be represented by the removal of an operating station, as it does not represent a service that the public has become reliant upon. See Chatom and Grove Hill, Alabama, 12 FCC Rcd 7664 (1997), and cases cited therein. However, we have confirmed that the reallocation will not result in any population losing a potential first or second fulltime aural service. Further, the reallocation will not result in the relocation of Station WWFY from a rural to an urban area.

#### Technical Summary

4. Channel 229C3 can be allotted to Addison, Vermont, in compliance with the Commission's minimum distance separation requirements, with respect to all domestic allotments, with a site restriction of 14.2 kilometers (8.8 miles) west to accommodate petitioner's desired transmitter site.<sup>1</sup> Addison is located within 320 kilometers of the U.S.-Canadian border and the allotment will result in a short-spacing to Station CBM-FM, Channel 228C1, Montreal, Quebec, Canada. Therefore, the allotment has been concurred in by the Canadian Government as a specially-negotiated short-spaced allotment.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective December 14, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Hague, New York	--
Addison, Vermont	229C3

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of John Anthony Bulmer for Station WWFY, IS MODIFIED to specify operation on Channel 229C3 at Addison, Vermont, in lieu of Channel 229A at Hague, New York, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

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<sup>1</sup> The coordinates for Channel 229C3 at Addison are 44-02-30 North Latitude; 73-28-00 West Longitude.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, John Anthony Bulmer, permittee of Station WWFY, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**FEDERAL COMMUNICATIONS COMMISSION**

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau